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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 17765 of 1994

Between:

M.Nagabhushanam, S/o. Rama Rao.
Hospet, Karnataka.

..... PETITIONER

And

- 1 The Manager, Southern Roadways (P) Ltd.,
No.24/2, Siddayya Road, Wilson Gardens,
Bangalore, Karnataka.
- 2 The Br.Manager, Southern Roadways, (P) Ltd.,
Subash Road, Ananthapur.
- 3 The Chairman, Industrial Tribunal-cum-Labour Court,
Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ of direction mostly on which is in the nature of Writ of Certiorari calling for the records in and relating to the proceedings Ref.SR.230, dated 01/12/1989 of the 2nd respondent and consequential award dated 21/06/1991 in I.D.No.298/1989 of the 3rd respondent and quash the same with a direction to the respondents one and direct to reinstate the petitioner to service with by back wages and consequential benefits.

For the Petitioner:MR.P.VEERA REDDY, Advocate.

For the Respondent Nos. 1 and 2: Mr.S.Ravindranath, Advocate.

For the Respondent No.3: GP FOR SOCIAL WELFARE

The Court Made the Following :

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ORDER:

1. This Writ Petition is filed challenging the award passed by the Industrial Tribunal-cum-Labour Court, Anantapur (for short "Tribunal") in I.D.No.298 of 1989.

2. The petitioner was working as Heavy Vehicle Driver under respondent Nos.1 and 2 having been appointed on 02-01-1999 and it appears that on 14.10.1980, a check was conducted by the M.V.Inspector, and found that two persons were travelling in the cabin along with the driver and therefore, the driver was fined for a sum of Rs.50/- and also same was paid by the driver. Thereafter, a charge sheet was filed alleging that the petitioner committed misconduct by unauthorisedly allowing the passengers in cabin and thereafter an enquiry was conducted and ultimately, his services were terminated on 01-04-1989. Challenging the said termination, the petitioner has raised an Industrial Dispute before the third respondent in I.D.298 of 1989. The Tribunal passed an award dated 21-06-1991 holding that the charges framed against the petitioner were established and having coming to such finding, granted no relief to him. The said award is assailed before this Court by the petitioner.

3. The learned Counsel for workman submits that the award of the Tribunal is not sustainable in law inasmuch as no evidence was produced by the management to prove the charges. He further submits that the enquiry was conducted in a most defective manner. The enquiry was held at Banglore, whereas the petitioner is a resident of Anantapuram and he was completely disabled from attending the enquiry. It is also the case of the petitioner that the passengers stopped the vehicle by placing the bolts on the road and forcibly made an entry in the cabin, even though resisted by the petitioner. Thus the learned Counsel submits that the award of the tribunal is liable to be set aside. Even though, notices were served on the respondent Nos.1 and 2, they are not represented by any counsel. Therefore, the matter was heard on merits.

4. It is not in dispute that the petitioner was issued charge sheet and ultimately his services were terminated on 01-04-1989. The question that falls for consideration is that whether the termination of the petitioner was justified from the award of the tribunal. It is seen that no evidence, either documentary or oral, was produced by the petitioner as well as by the management. In such a situation, how the tribunal could come to a conclusion that the charges were proved, more especially when the workman has taking a plea that the enquiry was not conducted properly and that it is vitiated by the principles of nature of justice. Thus, I find that the award passed by the Tribunal is not sustainable in law the matter requires reconsideration in the hands of the Tribunal after giving notice to the parties concerned.

5. Accordingly, I set aside the award of the Tribunal is set aside and the matter is remitted back to the Tribunal, for fresh consideration. The Tribunal after issuing notice to the concerned shall pass an award within a period of four months from the date of receipt of a copy of this order.

6. The Writ Petition is accordingly allowed. No costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devider Gupta, the Chief Justice on this Thursday,
The Twenty Fourth Day of June, Two Thousand And Four.

Jsu

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Manager, Southern Roadways (P) Ltd.,
No.24/2, Siddayya Road, Wilson Gardens,
Bangalore, Karnataka State.
- 2 The Br.Manager, Southern Roadways, (P) Ltd.,
Subash Road, Ananthapur.

3 The Chairman, Industrial Tribunal-cum-Labour Court,
Ananthapur.

4. 2CCs to G.P. for social welfare, High Court Buildings, Hyd., (OUT)

5. 2CD copies